

CONTRACT #31
RFS # 359.10-195
FA # Pending

**Department of Children's
Services**

VENDOR:
**University of Chicago on
behalf of Chapin Hall Center
for Children**



RECEIVED
APR 18 2008
FISCAL REVIEW

**State of Tennessee
Department of Children's Services
Cordell Hull State Office Building, 7th Floor
436 Sixth Avenue North
Nashville, Tennessee 37243-1290
Viola P. Miller, Commissioner**

April 15, 2008

James White, Executive Director
Fiscal Review Committee
8th Floor, Rachel Jackson Building
320 Sixth Avenue North
Nashville, TN 37243

Director White,

Please find as accompaniments to this summary letter, the Procurement Method Request for Non-Competitive Negotiation, RFS # 359.10-195-09, the initial contract, and the Summary Sheet for this contract with the University of Chicago on Behalf of the Chapin Hall Center for Children. This contract has a three (3) year term with a liability of Nine Hundred Fifteen Thousand Dollars, (\$915,000.00).

The University of Chicago on Behalf of the Chapin Hall Center for Children has been utilized by this department since Fiscal Year 2004 to provide consultation and technical assistance regarding performance based contracting and data management services. This contractor is identified in the Brian A. Consent Decree, Civil Action No. 3-00-0455. In accordance with Civil Action No. 3-00-0445, Brian A et al v. Phil Bredesen, et al., Stipulation of Settlement of Contempt Motion, the Department is dedicated to achieving compliance with the provisions of the Brian A. Settlement Agreement through implementation of the Path to Excellence. The Path to Excellence, Consultants Available to Support the Plan, page 15, Domain:Placement –identifies Fred E. Wulczyn, Chapin Hall, University of Chicago, as the consultant and directs DCS to, "continue contract and work with Chapin Hall related to data analysis and performance based contracting. Consequently, the University of Chicago on Behalf of the Chapin Hall Center for Children has been utilized by this department since Fiscal Year 2004 to provide consultation and technical assistance regarding performance based contracting and data management services.

Should you need further information regarding this contract, please contact me at 615-741-2457 or by e-mail at Steven.Barlar@state.tn.us.

Sincerely,

Steven Barlar
DCS Contracts Section

REQUEST: NON-COMPETITIVE CONTRACT

APPROVED

Commissioner of Finance & Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	359.10-195-09	
2) State Agency Name :	Department of Children's Services	
3) Service Caption :	Outcome Measurement	
4) Proposed Contractor :	University of Chicago on Behalf of Chapin Hall Center for Children	
5) Contract Start Date : (attached explanation required if date is < 60 days after F&A receipt)	July 1, 2008	
6) Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 30, 2011	
7) Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$915,000.00	
8) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
9) Description of Service to be Acquired :		
Provide consultation on data analysis and performance-based contracting.		
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service :		
Pursuant to the Brian A. Consent Decree, Civil Action No. 3-00-0445, XII. <u>Supervision of Contract Agencies</u> , Section A, page 35 and the <i>Brian A. et al v. Phil Bredesen, et al.</i> , Stipulation Of Settlement Of Contempt Motion the parties accepted the Path To Excellence as the mechanism through which this Decree can be settled. The Path to Excellence details specific requirements and resources that are to be adhered to by DCS.		
11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method It Used :		
The University of Chicago on behalf of Chapin Hall Center for Children has previously provided data analysis and performance-based contracting consultation for DCS. Previous contracts have focused on different aspects of the DCS service delivery system such as performance based contracts for agencies providing Residential Services, development of a methodology for evaluating the performance of the private agencies that provide foster car services in the state; and evaluating Regional Implementation Plan outcomes, a critical element in the DCS Path to Permanency. Previous contracts have been procured using the non-competitive procurement process as the U. of C. Chapin Hall Center for Children is specifically identified in the DCS Path to Excellence Implementation Plan accepted by all parties in the Brian A. v. Phil Bredesen Settlement of Contempt Motion. The U. of C. Chapin Hall Center for Children is the expert consultant identified in the Placement Domain of the plan. During the term of this contract the proposed contractor will be providing extensive and substantive research and evaluation; fiscal analysis and implementation activities around key child welfare		

outcomes; regional and contract agency performance as detailed in the *Brian A. Path to Excellence and Road to Reform*.

12) Name & Address of the Proposed Contractor's Principal Owner(s) :
(not required if proposed contractor is a state education institution)

The University of Chicago on behalf of Chapin Hall Center for Children
970 E. 59th Street
Chicago, IL 60637

13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service :

The University of Chicago, Chapin Hall Center for Children is a research and development center focusing on policies, practices, and programs affecting children, families and communities. The Center was established in 1985 and devotes special attention to children facing significant problems, including abuse or neglect, poverty, and mental or physical illness, and to the service systems designed to address these problems. The Chapin Hall Center has previously been involved with the full development of performance-based contracts with other jurisdictions and States and has successfully coordinated with the plaintiffs for the Brian A. Consent Decree in other jurisdictions. The Technical Advisory Committee (TAC) has recommended contracting with the University of Chicago, Chapin Hall Center for Children.

14) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

15) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

16) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

No efforts were made to identify other alternative sources since services are pursuant to the Brian A. Settlement Agreement.

18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process :
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

Pursuant to the Brian A. Consent Decree, Civil Action No. 3-00-0455, XII. Supervision of Contract Agencies, Section A, page 35: All contract agencies which provide placements or services to children in the plaintiff class shall only do so pursuant to annual performance based contracts issued by DCS". In addition, Section XIV, Technical Assistance Committee, Sections A, B, & C, page 37, sets forth the establishment of a Technical Advisory Committee (TAC) which will "have the authority to consult and involve other experts as necessary".

In accordance with Civil Action No. 3-00-0445, Brian A et al v. Phil Bredesen, et al., Stipulation of Settlement of Contempt Motion, the Department is devoted to achieving compliance with the provisions of the Brian A. Settlement Agreement through implementation of the Path to Excellence. The Path to Excellence, Consultants Available to Support the Plan, page 15, Domain: Placement –identifies Fred E. Wulczyn, Chapin Hall, University of Chicago, as the consultant and directs DCS to, "continue contract and work with Chapin Hall related to data analysis and performance based contracting. Engage Chapin Hall to initially do the work while also working with DCS to build [the] internal capacity.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date

C O N T R A C T S U M M A R Y S H E E T

021908

RFS #				Contract #			
359.10-195-09							
State Agency				State Agency Division			
Department of Children's Services				Contracts Administration			
Contractor Name				Contractor ID # (FEIN or SSN)			
University of Chicago Not For Itself, But Solely On Behalf Of The Chapin Hall Center For Children				<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V-		362177139-15	
Service Description							
Consulting Brian A							
Contract Begin Date		Contract End Date		SUBRECIPIENT or VENDOR?		CFDA #	
July 01, 2008		June 30, 2011		Vendor			
Mark Each TRUE Statement							
<input type="checkbox"/> Contractor is on STARS				<input type="checkbox"/> Contractor's Form W-9 is on file in Accounts			
Allotment Code		Cost Center		Object Code		Fund	
359.10		136		083		11	
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount		
2009	\$305,000.00	00.00	00.00	00.00	\$305,000.00		
2010	\$305,000.00	00.00	00.00	00.00	\$305,000.00		
2011	\$305,000.00	00.00	00.00	00.00	\$305,000.00		
	00.00	00.00	00.00	00.00	00.00		
	00.00	00.00	00.00	00.00	00.00		
TOTAL:	\$915,000.00	00.00	00.00	00.00	\$915,000.00		
— COMPLETE FOR AMENDMENTS ONLY —				State Agency Fiscal Contact & Telephone #			
FY	Base Contract & Prior Amendments	THIS Amendment ONLY		Kathy Jones 741-0851			
				State Agency Budget Officer Approval			
				Funding Certification (certification, required by T.C.A. § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)			
TOTAL:							
End Date:							
Contractor Ownership (complete for ALL base contracts— N/A to amendments or delegated authorities)							
<input type="checkbox"/> African American		<input type="checkbox"/> Person w/ Disability		<input type="checkbox"/> Hispanic		<input type="checkbox"/> Small Business	
<input type="checkbox"/> Asian		<input type="checkbox"/> Female		<input type="checkbox"/> Native American		<input type="checkbox"/> NOT Minority/Disadvantaged <input checked="" type="checkbox"/> Other	
Contractor Selection Method (complete for ALL base contracts— N/A to amendments or delegated authorities)							
<input type="checkbox"/> RFP		<input type="checkbox"/> Competitive Negotiation *		<input type="checkbox"/> Alternative Competitive Method *			
<input type="checkbox"/> Non-Competitive Negotiation *		<input type="checkbox"/> Negotiation w/ Government (ID, GG, GU)		<input checked="" type="checkbox"/> Other *			
* Procurement Process Summary (complete for selection by Non-Competitive Negotiation, Competitive Negotiation, OR Alternative Method)							
Settlement Agreement : The provisions of the Brian A. Settlement Agreement through implementation of the Path to Excellence, <u>Consultants Available to Support the Plan</u> , page 15, Domain: Placement—identifies Fred E. Wulczyn, Chapin Hall, University of Chicago, as the consultant and directs DCS to, "continue contract and work with Chapin Hall related to data analysis and performance based contracting".							

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF CHILDREN'S SERVICES
AND
THE UNIVERSITY OF CHICAGO
NOT FOR ITSELF, BUT SOLELY ON BEHALF OF
THE CHAPIN HALL CENTER FOR CHILDREN**

This Contract, by and between the State of Tennessee, Department of Children's Services (DCS), hereinafter referred to as the "State" and The University of Chicago not for itself, but solely on behalf of the Chapin Hall Center for Children, hereinafter referred to as the "Contractor," is for the provision of providing consulting, technical assistance and other data management services, as further defined in the "SCOPE OF SERVICES."

The Contractor is an educational, private, non-profit organization.

Contractor Vendor Identification Number: 362177139-15

Contractor Address: 970 East 58th Street
Chicago, Illinois 60637

Contractor Place of Incorporation or Organization: Illinois

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The Contractor shall be responsible for providing extensive and substantive consultation, technical assistance and other data management services, as further defined in Attachment A., to DCS regarding performance based contracts, evaluation of regional implementation plan outcomes (Path to Permanency), developing appropriate methodologies, baseline data, benchmarks and goals for application in the development of outcomes for the Brian A. Settlement re-negotiations, and the ongoing evaluation of these outcomes.
- A.3. The Contractor shall assist DCS with the development of a methodology for evaluating performance of the private agencies that provide foster care services in the state.
- A.4. The Contractor shall use existing data resources, for measuring child level outcomes for children placed in foster and other residential placements for both the state agency and those private providers contracting with the state.
- A. 5. The Contractor shall continue to provide the implementation and revision as necessary, of a rating instrument for private provider agency performance.
- A.6. The Contractor shall refine the analysis of data resources and develop specific policy and practice recommendations to DCS.
- A.7. The Contractor shall take the lead responsibility for developing the baselines and performance expectations as well as providing technical assistance regarding policy and practice strategies, with particular emphasis on the fiscal strategies related to revenue, cash flow, and the incentive structure in performance based contracting.
- A.8. The Contractor shall assist with the implementation of the first, second and all subsequent phases of performance based contracting with Private Providers.

- A.9. The Contractor shall provide the appropriate analytical and technical capacity to DCS so that the public agency infrastructure as well as the private provider performance based contracts necessary to monitor statewide performance, is in place and functional.
- A.10. The Contractor shall provide that data reports, including Bi-Annual Reports, as further defined in Attachment A, will be produced.
- A.11. The Contractor shall use existing data resources for measuring agency- defined outcomes at the statewide, regional, and county level for children and families in the child welfare system.
- A.12. The Contractor shall be responsible for providing consultation, technical assistance and other data management services to DCS in the areas of performance based contracting and the evaluation of regional implementation plan (Path to Permanency) outcomes as further defined in Attachment A.
- A.13. The Contractor shall invoice DCS monthly for services provided. Such invoices shall be submitted to DCS not later than thirty (30) days after the end of the month in which the services was rendered.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on July 1, 2008 and ending on June 30, 2011. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Hundred Fifteen Thousand Dollars, (\$915,000.00). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4. shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
 - b. The Contractor shall be compensated based upon the following payment rates:

- (1) For service performed from July 1, 2008, through June 30, 2009, the following rates shall apply:

Service Description	Amount PER HOUR
Primary Consultant	\$ 145.23 per hour
Consultant 1	\$72.95
Consultant 2	\$71.72
Consultant 3	\$63.88
Consultant 4	\$55.42
Consultant 5	\$51.73
Consultant 6	\$42.09
Consultant 7	\$37.57

- (2) For service performed from July 1, 2009, through June 30, 2010, the following rates shall apply:

Service Description	Amount PER HOUR
Primary Consultant	\$153.45
Consultant 1	\$75.87
Consultant 2	\$74.59
Consultant 3	\$66.44
Consultant 4	\$57.64
Consultant 5	\$53.80
Consultant 6	\$43.77
Consultant 7	\$39.07

- (3) For service performed from July 1, 2010, through June 30, 2011 the following rates shall apply:

Service Description	Amount PER HOUR
Primary Consultant	\$162.17
Consultant 1	\$78.90
Consultant 2	\$77.57
Consultant 3	\$69.09
Consultant 4	\$59.94
Consultant 5	\$55.95
Consultant 6	\$45.52
Consultant 7	\$40.64

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.

C.4. Travel Compensation. Compensation to the Contractor for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

- a. The Contractor shall submit invoices, Attachment A, no more often than monthly, with all necessary supporting documentation, to:

Rhonda Simpson,
336 Sixth Ave. N., Nashville, TN,
8th Floor
Cordell Hull Building

- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);
- (4) Contract Number (assigned by the State to this Contract);
- (5) Account Name: Department of Children's Services; Data Management and Regional Support
- (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.

- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The Contract may be terminated by either party by giving written notice to the other, at least sixty days (60) days before the effective date of termination. Should the State exercise this provision, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Should the Contractor exercise this provision, the State shall have no liability to the Contractor except for those units of service which can be effectively used by the State. The final decision as to what these units of service are, shall be determined by the State. In the event of disagreement, the Contractor may file a claim with the Tennessee Claims Commission in order to seek redress.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or

consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment B, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon

reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.10. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Rhonda Simpson
Director of Data Management and Regional Support
436 Sixth Avenue North
7th floor, Cordell Hull Bldg
Nashville, TN 37243-1290
Telephone: 615-741-9061
Fax: 615-251-9532

The Contractor:

Mary Ellen Sheridan, Ph.D.
Associate Vice President for Research
The University of Chicago
970 East 58th Street
Chicago, IL 60637
Telephone: 773-702-8604
Fax: 773-702-2142

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not

that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

- E.5. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.6. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

- E.7. Incorporation of Additional Documents. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these documents shall govern in the order of precedence as they appear in alpha order below.
- a. The Contract document and its attachments;

The following document included in this Contract by reference:

- b. The Contractor's Proposal Evaluating Child Welfare Outcomes in Tennessee, A Proposal to the Tennessee Department of Children's Services For Continuing Research and Analysis.

- E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss
- E.9. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.10. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

- E.11. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
 - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
 - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Contractor shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

**THE UNIVERSITY OF CHICAGO
NOT FOR ITSELF, BUT SOLELY ON BEHALF OF
THE CHAPIN HALL CENTER FOR CHILDREN:**

CONTRACTOR SIGNATURE**DATE**

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**DEPARTMENT OF CHILDREN'S SERVICES:**

VIOLA P. MILLER, COMMISSIONER**DATE****APPROVED:**

**M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION****DATE**

**DEBORAH E. STORY, COMMISSIONER
DEPARTMENT OF HUMAN RESOURCES****DATE**

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY**DATE**

Attachment A

	DCS FISCAL USE ONLY	
AGOBJ _____	TC _____	MOD _____
FFY _____	ALLOT _____	FD _____
DV NO. _____	CC _____	OBJ _____

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

The Contractor, identified above, does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract.

CONTRACTOR SIGNATURE

NOTICE: This attestation **MUST** be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

REQUEST: NON-COMPETITIVE CONTRACT

APPROVED

Commissioner of Finance & Administration

Date:

Each of the request items below indicates specific information that must be individually detailed or addressed as required. A request can not be considered if information provided is incomplete, non-responsive, or does not clearly address each of the requirements individually as required.

1) RFS #	359.10-195-09	
2) State Agency Name :	Department of Children's Services	
3) Service Caption :	Outcome Measurement	
4) Proposed Contractor :	University of Chicago on Behalf of Chapin Hall Center for Children	
5) Contract Start Date : (attached explanation required if date is < 60 days after F&A receipt)	July 1, 2008	
6) Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	June 30, 2011	
7) Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$915,000.00	
8) Approval Criteria : (select one)	<input checked="checked" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service	
9) Description of Service to be Acquired :	Provide consultation on data analysis and performance-based contracting.	
10) Explanation of the Need for or Requirement Placed on the Procuring Agency to Acquire the Service :	<p>Pursuant to the Brian A. Consent Decree, Civil Action No. 3-00-0445, XII. <u>Supervision of Contract Agencies</u>, Section A, page 35 and the <i>Brian A. et al v. Phil Bredesen, et al.</i>, Stipulation Of Settlement Of Contempt Motion the parties accepted the Path To Excellence as the mechanism through which this Decree can be settled. The Path to Excellence details specific requirements and resources that are to be adhered to by DCS.</p>	
11) Explanation of Whether the Procuring Agency Bought the Service in the Past, & if so, What Procurement Method It Used :	<p>The University of Chicago on behalf of Chapin Hall Center for Children has previously provided data analysis and performance-based contracting consultation for DCS. Previous contracts have focused on different aspects of the DCS service delivery system such as performance based contracts for agencies providing Residential Services, development of a methodology for evaluating the performance of the private agencies that provide foster car services in the state; and evaluating Regional Implementation Plan outcomes, a critical element in the DCS Path to Permanency. Previous contracts have been procured using the non-competitive procurement process as the U. of C. Chapin Hall Center for Children is specifically identified in the DCS Path to Excellence Implementation Plan accepted by all parties in the Brian A. v. Phil Bredesen Settlement of Contempt Motion. The U. of C. Chapin Hall Center for Children is the expert consultant identified in the Placement Domain of the plan. During the term of this contract the proposed contractor will be providing extensive and substantive research and evaluation; fiscal analysis and implementation activities around key child welfare</p>	

outcomes; regional and contract agency performance as detailed in the *Brian A. Path to Excellence and Road to Reform*.

12) Name & Address of the Proposed Contractor's Principal Owner(s) :
(not required if proposed contractor is a state education institution)

The University of Chicago on behalf of Chapin Hall Center for Children
970 E. 59th Street
Chicago, IL 60637

13) Evidence of the Proposed Contractor's Experience and Length of Experience Providing the Service :

The University of Chicago, Chapin Hall Center for Children is a research and development center focusing on policies, practices, and programs affecting children, families and communities. The Center was established in 1985 and devotes special attention to children facing significant problems, including abuse or neglect, poverty, and mental or physical illness, and to the service systems designed to address these problems. The Chapin Hall Center has previously been involved with the full development of performance-based contracts with other jurisdictions and States and has successfully coordinated with the plaintiffs for the Brian A. Consent Decree in other jurisdictions. The Technical Advisory Committee (TAC) has recommended contracting with the University of Chicago, Chapin Hall Center for Children.

14) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

15) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

16) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

17) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives :

No efforts were made to identify other alternative sources since services are pursuant to the Brian A. Settlement Agreement.

18) Justification of Why the State Should Use Non-Competitive Negotiation Rather Than a Competitive Process :
(Being the "only known" or "best" service provider to perform the service as desired will not be deemed adequate justification.)

Pursuant to the Brian A. Consent Decree, Civil Action No. 3-00-0455, XII. Supervision of Contract Agencies, Section A, page 35: All contract agencies which provide placements or services to children in the plaintiff class shall only do so pursuant to annual performance based contracts issued by DCS". In addition, Section XIV, Technical Assistance Committee., Sections A, B, & C, page 37, sets forth the establishment of a Technical Advisory Committee (TAC) which will "have the authority to consult and involve other experts as necessary".

In accordance with Civil Action No. 3-00-0445, Brian A et al v. Phil Bredesen, et al., Stipulation of Settlement of Contempt Motion, the Department is devoted to achieving compliance with the provisions of the Brian A. Settlement Agreement through implementation of the Path to Excellence. The Path to Excellence, Consultants Available to Support the Plan, page 15, Domain: Placement –identifies Fred E. Wulczyn, Chapin Hall, University of Chicago, as the consultant and directs DCS to, "continue contract and work with Chapin Hall related to data analysis and performance based contracting. Engage Chapin Hall to initially do the work while also working with DCS to build [the] internal capacity.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

Agency Head Signature

Date